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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,949	07/14/2003	Monique Francoise Craig	504/2	6411
7590	11/05/2004		EXAMINER	
KAPLAN & GILMAN L L P 900 Route 9 North Woodbridge, NJ 07095			SWIATEK, ROBERT P	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/618,949	CRAIG ET AL. <i>E</i>
	Examiner	Art Unit
	Robert P. Swiatek	3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 18 October 2004.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 4-11 and 13-23 is/are pending in the application.  
 4a) Of the above claim(s) 5,14,15 and 17-23 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 4,6-11,13 and 16 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>10-18-04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 4, 6, 7, 11, 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Freyne (US 561,217). The patent to Freyne discloses a horseshoe having a first part C of metallic construction and a second part A inwardly disposed relative to the first part and considered to overlie at least a portion of the frog of the hoof. Portions of two plates B embedded within second part A of Freyne extend outwardly relative to the main body portion of part A to terminate adjacent the peripheral edge of first part C. The rubber construction of the main body portion of second part A has greater resiliency and is less hard than first part C. With regard to claim 16, the unobscured, central portion of the Freyne horseshoe is considered to constitute a generic “aperture.”

Claims 4, 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Hourlier (US 3,490,536). The Hourlier horseshoe is constructed from an upper, first part D of hard plastic material and a lower, second part M of softer plastic material. A lip M<sub>S</sub> of the softer plastic material of part M curls around an inner peripheral edge of first part D of Hourlier so that it contacts the horse's hoof while the shoe is in use; the remainder of second part M extends from the inner periphery of part D to terminate adjacent the outer peripheral edge of first part D.

Claims 4, 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Sherman (US 3,513,915). The patent to Sherman depicts a horseshoe 30 having a first part 32 with a "half-round" surface 34 and a second part 11A extending inwardly from the first part to overlie a central sole portion of the horse's hoof. The resiliency of the second part is greater than that of the first part due to its thinner transverse cross-section, i.e., its geometric shape. As shown in Figure 7, the rearwardmost edge of second part 11A (that edge defining the heel of the shoe) is adjacent to the peripheral edge of first part 32; moreover, a tiny portion (unnumbered, but shown in Figures 7-9) of pad 11A extends outwardly beyond first part 32 to entirely surround it.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hourlier et al. in view of Rynning (US 6,467,548 B1). The Hourlier et al. horseshoe is disclosed as being nailed to a hoof. It would have been obvious to one skilled in the art to adhesively attach the Hourlier et al. shoe to a hoof and moreover to employ stand-offs on the sole side of the shoe as well, in view of the patent to Rynning that adhesive attachment allows for rapid placement of a shoe on a hoof (see column 2, lines 10, 11, of Hourlier) and stand-offs space the top surface of the horseshoe from the hoof bottom, permitting the adhesive to form a layer tightly bonding the entire surface area of the shoe to the horse's hoof.

Claims 4, 6-11, 13, 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

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applicants regard as the invention. In claim 4, line 8, it is unclear if the words "disposed between" mean the second part is interposed vertically between the first part and the hoof (an embodiment not believed described in the instant disclosure) or the second part is radially inwardly of the first part yet between the exterior circumference of the hoof and the frog.

Claim 10 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Applicants' arguments filed 18 October 2004 have been fully considered but they are not persuasive. Claims 4, 6-11, 13, 16 are not believed allowable for the reasons set forth above.

RPS: 0703/308-2700  
1 November 2004

*Robert P. Swiatek*

**ROBERT P. SWIATEK  
PRIMARY EXAMINER  
ART UNIT 333 3643**